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11 PRECISION VALVE & AUTOMATION, INC.

12
13 UNITED STATES DISTRICT COURT
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15 CENTRAL DISTRICT OF CALIFORNIA
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17 RUBEN JUAREZ, an individual and
18 ISELA HERNANDEZ, an individual,

19 Plaintiffs,

20 PRECISION VALVE &
21 AUTOMATION, INC., a corporation
22 and DOES 1-20,

23 Defendants.

CASE NO. CV17-03342-ODW (GJSX)
[L.A.S.C. Case No. BC650229]

**DEFENDANT PRECISION VALVE &
AUTOMATION, INC.'S NOTICE OF
MOTION AND MOTION FOR
SUMMARY JUDGMENT**

Date: September 24, 2018
Time: 1:30 p.m.
Cttrm: 5D, 5th Floor
Judge: Hon. Otis D. Wright II

*This motion is made following the
conference of counsel pursuant to L.R. 7-3
which took place on July 16, 2018. (Catalona
Dec., 9:9-17, 690-694.)

**Defendant requests oral argument on this
motion for summary judgment.

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28 NOTICE IS HEREBY GIVEN that on September 24, 2018, at 1:30 p.m. or as

1 soon thereafter as the matter may be heard in the above-entitled court located at the
 2 First Street Courthouse, 350 W. 1st Street, Los Angeles, CA. 90012 - Courtroom 5D,
 3 5th Floor, defendant Precision Valve & Automation, Inc. ("PVA") will move the Court
 4 for an order granting summary judgment in favor of PVA on all claims.

5 This Motion is made pursuant to Federal Rule of Civil Procedure 56 on the
 6 ground that there is no triable issue of material fact, and that judgment should be
 7 entered in PVA's favor as a matter of law with respect to the application of
 8 California's 2-year statute of limitations found at Cal. Code of Civil Procedure
 9 ("C.C.P.") sections 340.8 and 335.1. As provided in the moving papers listed below,
 10 plaintiffs' lawsuit accrued no later than October, 2014 and plaintiffs cannot meet their
 11 burden to prove that this accrual may be delayed pursuant to California's delayed
 12 discovery rule. Plaintiff Juarez also filed a workers' compensation action on
 13 September 24, 2014 which by itself is "definitive proof" that his lawsuit accrued at that
 14 time. Plaintiffs' lawsuit was not filed until February 28, 2017 which was in violation
 15 of California's 2-year statute of limitations. Summary judgment is therefore required
 16 to be entered in favor of PVA under California law which governs plaintiffs' claims.
 17 PVA separately moves for summary judgment on the claims of both plaintiff Juarez
 18 and plaintiff Hernandez because the claims of each plaintiff are separately and
 19 independently barred by the statute of limitations. In addition, PVA has also moved
 20 for partial summary judgment on plaintiffs' failure to warn claims and strict product
 21 liability cause of action, which are prohibited because the undisputed evidence
 22 establishes that plaintiffs are unable to meet their burden of proof to establish these
 23 claims pursuant to California law.

24 This Motion is based upon this Notice of Motion and Motion, the accompanying
 25 Memorandum of Points and Authorities, Separate Statement of Uncontroverted Facts
 26 and Conclusions of Law, Declarations of Alex P. Catalona, Jonathan Urquhart,
 27 Gregory E. Maxwell, David Hwang, Duc Q. Phan, and Lynette Dhillon, together with
 28 exhibits attached thereto, Evidence With Table of Contents, [Proposed] Judgment, and

1 all files and pleadings in this action, and upon such further oral and/or documentary
2 evidence as may be presented by PVA at or before the hearing of this Motion.

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4 DATED: August 24, 2018

BECHERER KANNETT & SCHWEITZER

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7 By: /s/ Alex P. Catalona
8 Alex P. Catalona
9 Attorneys for Defendant
10 PRECISION VALVE & AUTOMATION, INC.
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 24, 2018, a true and correct copy of **DEFENDANT PRECISION VALVE & AUTOMATION, INC.'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT** has been served via ECF upon all counsel of record in the Court's electronic filing system.

By: /s/ Jerry Dumlao

**Becherer
Kannett &
Schweitzer**

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